

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RONALD J. ALLISON,

Plaintiff

v.

STEIN FORENSICS UNIT & STAFF,

Defendant

Case No. 2:21-cv-01682-RFB-NJK

**ORDER**

On September 15, 2021, this Court issued an order directing Plaintiff to file a complaint in compliance with Local Special Rule 2-1 ("LSR 2-1") and a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before November 15, 2021. (ECF No. 3). The November 15, 2021 deadline has now expired, and Plaintiff has not filed a complaint in compliance with LSR 2-1, a fully complete application to proceed *in forma pauperis*, paid the full \$402 filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with

1 local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey  
3 a court order, or failure to comply with local rules, the court must consider several factors:  
4 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
8 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously  
10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
11 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
15 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
17 the court's order will result in dismissal satisfies the "consideration of alternatives"  
18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
19 F.2d at 1424. The Court's order requiring Plaintiff to file a complaint in compliance with  
20 LSR 2-1 and a fully complete application to proceed *in forma pauperis* or pay the full \$402  
21 filing fee on or before November 15, 2021 expressly stated: "IT IS FURTHER ORDERED  
22 that, if Plaintiff does not file a complaint in compliance with LSR 2-1 on or before  
23 November 15, 2021, this case will be subject to dismissal without prejudice for Plaintiff to  
24 refile the case with the Court, under a new case number, when Plaintiff is able to file a  
25 complaint in compliance with LSR 2-1." The Court's order further stated: "IT IS  
26 FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed  
27 *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action  
28 on or before November 15, 2021, this case will be subject to dismissal without prejudice

1 for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff is  
2 has all three documents needed to file a complete application to proceed *in forma*  
3 *pauperis* or pays the the full \$402 filing fee.” (ECF No. 3 at 3). Thus, Plaintiff had  
4 adequate warning that dismissal would result from noncompliance with the Court’s order  
5 to file a complaint in compliance with LSR 2-1 and a fully complete application to proceed  
6 *in forma pauperis* or pay the full \$402 filing fee on or before November 15, 2021.

7 IT IS THEREFORE ORDERED that this action is dismissed without prejudice  
8 based on Plaintiff’s failure to file a complaint in compliance with LSR 2-1 and a fully  
9 complete application to proceed *in forma pauperis* or pay the full \$402 filing fee in  
10 compliance with this Court’s order dated September 15, 2021. (ECF No. 3).

11 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter  
12 judgment accordingly.

13 IT IS FURTHER ORDERED that Plaintiff may move to reopen this case and vacate  
14 the judgment by filing a motion for reconsideration of this order. In this motion, the Plaintiff  
15 is required to explain what circumstances delayed him from paying the filing fee or filing  
16 the application to proceed *in forma pauperis* and a complaint in compliance with LSR 2-  
17 1. If the Court finds there to be good cause or a reasonable explanation therein, the Court  
18 will reopen the case and vacate the judgment.

19 DATED: February 28, 2022

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RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE